

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DAVID CHITYAL,

Petitioner,

v.

HELEN J. MARBERRY,

Respondent.

Civil Action No. 07-254 Erie

MEMORANDUM ORDER

This petition for writ of habeas corpus was received by the Clerk of Court on September 24, 2007 and was referred to Chief United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Chief Magistrate Judge's Report and Recommendation, filed on October 1, 2007 [2], recommends that the Petitioner's motion for leave to proceed *in forma pauperis* [1] be denied. The parties were allowed ten (10) days from the date of service in which to file objections. Service was made on Petitioner by certified mail at FCI McKean, where he was then incarcerated. Petitioner filed no objections to Chief Magistrate Judge Baxter's Report and Recommendation. In addition, Petitioner has since paid the \$5.00 filing fee, rendering his motion for *in forma pauperis* status moot. After de novo review of the petition and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 18th day of July, 2008;

IT IS HEREBY ORDERED that the Petitioner's motion [1] for leave to proceed *in forma pauperis* be, and hereby is, DENIED.

The Report and Recommendation of Chief Magistrate Judge Baxter, filed on October 1, 2007 [2], is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
SEAN J. McLAUGHLIN
United States District Judge

cm: All parties of record
Susan Paradise Baxter, Chief U.S. Magistrate Judge